

NATURAL RESOURCES COMMISSION
Meeting Minutes
February 2, 2016

Pursuant to the notice filed with the Town Clerk, the meeting of the Natural Resources Commission was held at 141 Keyes Road, first floor conference room, Concord, MA at 7:00 p.m. on Tuesday, February 2, 2015. The following Commissioners were present: Greg Higgins, Chair, Jeff Adams, Lynn Huggins, Chip Poutasse, and Judy Zaunbrecher. Delia Kaye, Natural Resources Director, Lori Capone, Assistant Natural Resources Director, and Natural Resources Administrative Assistant Kathy Richardson, were also present.

Chair Higgins opened the meeting at 7:00 p.m. in accordance with the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and the Concord Wetlands Bylaw.

Town of Concord - CPW Engineering, Assabet Avenue, DEP #137-1323	7:00 pm
Damonmill Square Properties, LLC, 9 Pond Lane, DEP #137-1307	7:00 pm
Symes Development, 140 Commerford Road, DEP #137-1269	7:25 pm
Frank McGillin, 68 and 18 Cambridge Turnpike, DEP #137-1330	7:28 pm
Middlesex School, 1400 Lowell Road, DEP #137-1312	7:45 pm

CONTINUANCES

Notice of Intent Application for the Town of Concord - CPW Engineering, Assabet Avenue, DEP #137-1323

Chair Higgins reopened the hearing to install two overflow pipes and rip-rap swales within Bordering Vegetated Wetlands, Land Under Waterbodies and Waterways, Bordering Land Subject to Flooding, the 200-foot Riverfront Area to the Assabet River, and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Adams moved to continue the hearing to February 17, 2016. Commissioner Zaunbrecher seconded. All so voted.

Notice of Intent Application for Damonmill Square Properties, LLC, 9 Pond Lane, DEP #137-1307

Chair Higgins reopened the hearing for approval to repair and maintain an existing dam, stabilize the embankment, repair a section of wall, remove trees, and close the headrace and tailrace, a portion of which work is within Bordering Land Subject to Flooding, the 200-foot Riverfront Area to the Assabet River, and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Site Layout prepared by Goldsmith, Priest and Ringwall, Inc., lasted revised January 21, 2016.

Jude Gauvin of Goldsmith, Prest and Ringwall, Inc. attended tonight's meeting.

Mr. Gauvin presented the revised plan with the following changes since the last hearing: 1) the dewatering method has been changed from using a Port-a-dam system to sand bags, working in manageable sections so they don't open the entire wall at once; and, 2) a replanting plan for along the retaining wall consisting of groupings of shrubs far enough away from the wall so the vegetation won't impact the wall stability. The applicant is still trying to

obtain permission from the abutter across the river in order to access the west bank. They met last week and the abutter agreed to sign a letter to give to the Commission within the next few weeks. Mr. Gauvin felt all other concerns have been satisfied.

Chair Higgins asked why they are proposing to remove so many trees, some greater than 30 feet from the dam. Mr. Gauvin said the trees were breaking down the wall of the dam. Commissioner Poutasse asked if he was referring to the trees upstream and why was he removing trees 30 feet vs. 20 feet from the dam, as recommended by the Office of Dam Safety. Mr. Gauvin said he could leave the three trees outside 20 feet and only remove the trees within the 20 foot area. Chair Higgins asked if they were stumping as well to which Mr. Gauvin responded yes. Commissioner Adams expressed concern about stumping since the river still floods in the spring and whether there was any merit to leaving the stumps to maintain the stability of the area. Mr. Gauvin said he still wants to remove the stumps right next to the dam to prevent future breaches to the wall from new growth but could leave the remaining stumps. Commissioner Zaunbrecher suggested leaving the stumps at a certain height for animals to live in but Chair Higgins raised concern that down the road they might fall over and clog the river. Chair Higgins said this project is significant and the ramifications could be quite large to a number of people downstream. He and staff felt that a third party consultant, with experience in dam projects, should be hired to review the proposed work. Mr. Gauvin agreed to the Commission hiring a third party consultant.

Commissioner Adams asked Mr. Gauvin why he is proposing sand bags for dewatering instead of the previously proposed Port-a-dam system. Mr. Gavin said the work would be in the summer when the water is low. Porta-a-dams are very costly and cumbersome to move around. Sandbags are more manageable for the site conditions. Commissioner Zaunbrecher asked if a condition should be included requiring a back-up erosion plan should the water level rise unexpectedly during construction. Mr. Gauvin stated that the project could be conditioned to have staff come out and assess whether the water was too high or flowing too fast to continue working until conditions improved. Director Kaye commented that getting an expert opinion with dam restoration would be helpful in determining whether sandbags would be sufficient based on water flow and levels as well as weather conditions. In answer to a question from Commissioner Zaunbrecher, Mr. Gauvin felt the project does not require the Army Corps of Engineers approval but they have filed with the Office of Dam Safety. Director Kaye thought the project might require Army Corps review.

Commission Adams asked how they planned to fix potential erosion where the stumps would be removed in the area of the wall so silt doesn't enter the water. Mr. Gauvin said that machinery would work from above the wall. Some soil and debris would likely fall between the wall and the sand bags which would be cleaned up. Chair Higgins stated if the sandbags are working, there won't be any water, so material could easily be removed from the River.

Chair Higgins said if the applicant was willing to have a peer review then staff will issue an RFQ for this service. Director Kaye said she would issue an RFQ tomorrow with responses requested back within a week. Allowing another week to get someone onboard and an estimated two weeks for review, Director Kaye recommended the hearing be continued for one month.

Commissioner Adams moved to establish a Section 53G account up to \$5,000 for third party peer review of the project for Damonmill Square Properties, LLC, 9 Pond Lane, DEP #137-1307. Commissioner Zaunbrecher seconded. All so voted.

Commissioner Poutasse asked if the wall was being rebuilt using mortar or dry laid and if there is anything preventing the soil washing from behind the wall through the cracks. Mr. Gauvin said the plan was to re-lay the dry stone that is already there and there is usually 12 inches of crushed stone and fabric that doesn't let that migration happen. Director Kaye requested an engineering plan from a structural engineer. This is typical for a wall of this size.

For clarity, Chair Higgins read the outstanding issues as follows:

1. Provide a written statement from a qualified expert on the impact on the river (fisheries and wildlife, water temperature) associated with this tree removal. Dave Crossman submitted a memo on wildlife impacts that does not address concerns raised by the Division of Fisheries and Wildlife.
2. Provide a comprehensive invasive species management plan as the one submitted only addresses bittersweet control.
3. Provide more detail on how the tree removal work will be conducted, noting stumps to remain, and what will be planted in its place.
4. Provide landowner permission for work/access proposed at 36 Water Street.
5. Provide a structural drawing of the wall reconstruction.
6. Show the west property line on the plan.

There is also an outstanding Order of Conditions on the property from 1985 that was never recorded. This needs to be resolved or it will be included as a condition.

Commissioner Poutasse asked if the impact on the River from the reduction of shade provided by trees proposed to be removed was within the scope of the peer review. Director Kaye responded yes.

The floor was open for public comments. Pam Rockwell, 1810 Main Street, speaking on behalf of OARS, said OARS would prefer to see the dam removed altogether in the best interest of the fish and the river. Since that is not the plan, she suggested that part of the river be leveled out so the fish have a better channel to swim upstream more easily. OARS is also concerned about the loss of shade with the trees being removed creating more heat in the water, killing some of the fish. Ms. Rockwell also recommended the removal of invasives so they will not kill any new plantings and thanked the Commission for their careful evaluation of the project. Mr. Gauvin stated that they are not proposed any alteration of the river bed.

The applicant agreed to continue the hearing to the March 2, 2016 meeting.

Notice of Intent Application for Symes Development, 140 Commerford Road, DEP #137-1269

Chair Higgins reopened the hearing for approval to demolish the existing dwelling, associated septic and gravel driveway at 140 Commerford Road and construct a 22-unit Planned Residential Development. Work within jurisdictional areas includes constructing a portion of the driveway with stormwater controls and grading; site preparation within four lots and common land; and partial construction of four dwellings within the Riverfront Area of Baptist Brook, Certified Vernal Pool Habitat, and the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- 140 Commerford Road A Planned Residential Development (Sheets 1-16) prepared by Stamski & McNary, last revised January 29, 2016
- Stormwater Management Report, last revised January 29, 2016
- Operation and Maintenance Manual last revised January 29, 2016

Richard Harrington, of Stamski and McNary, Inc. and Jeffrey Rhuda of Symes Development & Permitting, LLC attended this meeting.

Mr. Harrington stated that he has met with CPW and DNR staff and has resolved all drainage concerns. Commissioner Adams reiterated that no salt shall be used for the first 200 feet of the common driveway and the need to advise the snow removal company of this. Chair Higgins asked for clarification regarding the bounding of the open space land. Mr. Harrington said he worked with staff to develop a plan that provides appropriate bounding which is shown on the Record Plan.

There were no public comments.

Commissioner Adams moved to close the hearing and issue Order of Conditions for 140 Commerford Road, DEP File#137-1269, with Findings A, B and C, Standard Conditions 1-19 and Special Conditions 20-72. Commissioner Huggins seconded. Chair Higgins, and Commissioners Adams and Huggins so voted. Commissioners Poutasse and Zaunbrecher abstained.

Notice of Intent Application for Frank McGillin, 68 and 18 Cambridge Turnpike, DEP #137-1330

Chair Higgins reopened the hearing for approval to construct a two-car detached garage within the 100-foot Buffer Zone to Bordering Vegetated Wetland and the 200-foot Riverfront Area to Mill Brook.

List of plans and documents discussed at this meeting:

- Wetlands Permitting Plan prepared by Stamski and McNary, Inc., last revised January 21, 2016

Richard Harrington of Stamski and McNary and owners Mr. and Mrs. Frank McGillin attended tonight's meeting.

The option proposed this evening is an attached garage with a footprint that is greater than 50 feet from the edge of wetlands and greater than 200 feet from edge of Mill Brook. The proposed driveway would pitch down to the catch basin that's currently in the driveway. They are proposing no work in the 25-foot No Disturb Zone and no structures within the 50-foot No Build Zone.

Commissioner Adams restated that the edge of the foundation is right on the 50-foot No Build Zone and there will be excavation 3 feet outside of it, but they have a siltation barrier behind that. Commissioner Adams said it didn't look like they could move it any closer given the site and width of two cars. Commissioner Zaunbrecher asked if the impervious cover of the lot has increased. Mr. Harrington stated that it will. Chair Higgins asked if the applicant has file or inquired with HDC on the proposed design. Mr. Harrington said his client is requesting an Order of Conditions so they can move forward with the land transfer with the abutter and then would file with HDC after that. Chair Higgins said it was a lot of effort not to have the HDC simultaneously onboard. Chair Higgins asked if there are invasives in the area.

Commissioner Adams said there were some behind the shed and that the Commission was looking for a more robust mitigation plan to compensate for the work that is being done. He also wanted to know the dewatering method and Mr. Harrington said he could add that to the plan.

Mr. McGillin said there were no invasives in the area where the work would be done. There is just landscaping and lawn. Commissioner Adams commented that while adding an impervious structure on the site it would be a balanced approach to improve some other area of their property. One way to do this is to eradicate some of the invasives behind the shed. Chair Higgins stated that several trees were taken down without approval of the Commission that also should be considered when determining appropriate mitigation for the project.

Commissioner Poutasse asked whether impervious calculations were provided for the increase in impervious surfaces in the 100-foot Buffer Zone. Mr. Harrington stated that he could provide these. Commissioner Poutasse then asked if they had thought about mitigating by using pervious pavement or some other pervious material. Mr. Harrington said there hadn't been any discussion about this yet. Chair Higgins asked if the shed was staying. Mr. Harrington said the shed was originally in the footprint of the garage, but it can remain now with this new plan for the attached garage. Commissioner Zaunbrecher stated that removing the shed would be another mitigation option to consider. Commissioner Adams said this design complies better than the previous one with the wetland regulations.

There were no public comments.

Commissioner Adams recommended that the applicants apply to the HDC concurrently with NRC. He asked for a consensus as opposed to an approval from the Commission that this design is better than the previous design and that they feel they could eventually approve it. This would allow them to go to the HDC and say that this plan is what the NRC is suggesting. Mrs. McGillin stated they may never build the garage so they just want the approval. Mr. McGillin said they want to clean up the encroachment issues onto the abutting property while creating the option of being able to build a garage.

Chair Higgins reiterated the need to show mitigation on the plan for the Commission to approve the project so everyone understands the expectations of the proposed work.

The applicant agreed to continue the hearing to the February 17, 2016 meeting.

NEW APPLICATIONS

Amendment for Middlesex School, 1400 Lowell Road, DEP File #137-1312

Chair Higgins opened the hearing for approval to install a second equipment shelter and utilities for a 120-foot temporary cell tower and restore the site following installation of a permanent cell tower within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Request for Amended Order of Conditions - dated January 21, 2016
- Alternate Location, Revised Limits Restoration Plan prepared by Stantec, last revised January 21, 2016
- Set of Concord North MA (Temporary Monopole) plans prepared by Hudson Design Group, last revised January 8, 2016.

Frank Holmes of Stantec Consulting Services, Inc., and Matthew Crozier and Steve McKeown of Middlesex School, attended tonight's meeting.

Mr. Crozier said the purpose of this hearing is to modify the Order of Conditions for revisions to the proposed temporary cell tower site. He is requesting an Amendment be approved tonight as they need to relocate the equipment from the smokestack in order to proceed with the Music Center and ultimately will return the temporary site to its natural state with a restoration plan.

Mr. Holmes said the amendment addresses questions that were raised by DNR staff regarding an increase of impervious area due to additional sheds and that they provide a restoration plan now that the site will only be used temporarily. He said Assistant Director Capone had additional questions regarding the bump outs shown on the buildings. These are air conditioning units to keep equipment cool. He was also asked what material was being used for the stoops at the doors. The plans now call this out as using wood. He said the limit of work is the same as originally approved. The pole and ballast did shift seven feet to the northeast but it's still within the fence line. On the plan they now show the actual size of the ballast as 20 feet by 20 feet. Another question related to the pull-box and whether it was an additional structure. It is underground with hand pulled wires through conduit. There were also extraneous remarks, such as crushed stone suggesting it might be beyond the limit of the fence and another note that the plan was subject to change which have both been removed from the plan. The last comment was about the restoration plan and the need for a more robust plan to include increased number of trees being planted. They submitted a revised plan using 3 ½ - 4 inch caliper trees increasing the number from 7 to 38, being planted 10 feet on center.

Chair Higgins said the site will be restored by December 2018 and reiterated that these are temporary structures. Commissioner Zaunbrecher asked if a structural analysis has been done on the ballast and Mr. Holmes said yes and that's why AT&T determined it needed to be 20 feet in order for the pole to be stable. Commissioner Adams contends that the cap of the hand pull box is flush to grade and should be part of the impervious calculations. Also as a courtesy he asked that because the pole is inside the 50-foot zone by 6 inches that they move it outside the 50-foot No Build area as previously approved. Chair Higgins added that the additional cabinets should be moved outside the 50-foot zone also. Mr. Crozier said he would relay this information when he meets with them.

The Commission reviewed the proposal to plant replacement trees 20 feet on center. Commissioner Adams said planting 10 feet apart occurs more naturally whereas 20-feet is more like a parkland. Director Kaye added that 10-feet on center is standard in mitigation plantings, giving a 100-foot radius around each tree. Commissioner Poutasse asked if using smaller trees with lower cost could be an alternative. Commissioner Adams said he was in favor of naturalizing the area more quickly by using larger trees as large trees are being removed for this temporary tower. He also mentioned that the school has been supportive of naturalizing this area more quickly as well and Mr. Crozier agreed.

There were no comments from the public.

Commissioner Poutasse suggested a few grammatical changes be considered to the Amended Order of Conditions which were agreed to by the Commission.

With the understanding that trees will be planted roughly 10-feet on center with the intention to quickly naturalize the area, and the verbal commitment by the school to try to reasonably keep structures outside the 50-foot No Build Zone, Commissioner Adams moved to approve an Amended Order of Conditions for the project located at Middlesex School, 1400 Lowell Road, DEP #137-1312, with Findings A and B, Standard Conditions 1-19 and Special Conditions 20-50. Commissioner Zaunbrecher seconded. All so voted.

CLOSE AND ISSUE PERMITS

Aho Development, 874 Elm Street, DEP #137-1331

Chair Higgins reopened the hearing for approval to remove an existing dwelling and detached garage and construct a new single family dwelling with associated septic system, grading, and paved driveway with access on Assabet Avenue, a portion of which work falls within the 200' Riverfront Area to the Assabet River.

Commissioner Huggins moved to close the hearing and issue Order of Conditions for DEP File#137-1331 for Aho Development Corporation, project located at 874 Elm Street, with Findings A, B, and C, Standard Conditions 1-19 and Special Conditions 20-46. Commissioner Poutasse seconded. All so voted.

CERTIFICATES OF COMPLIANCE

McBride, 253 Sudbury Road, DEP #137-1173

Assistant Director Capone said the Order was for demolishing and reconstructing an existing single-family dwelling and detached garage. The only outstanding issue is the irrigation system. They have removed most of the components from the 50-foot No Build Zone. They have relocated both the valve box and the controller box, still within the 50-foot but it's up against the house where the A/C units are and it's a logical location for those components. They did remove all the pipes and heads. Therefore, staff is recommending the issuance of the Certificate of Compliance.

Commissioner Adams moved to issue a Certificate of Compliance for McBride at 253 Sudbury Road, DEP #137-1173. Commissioner Zaunbrecher seconded. All so voted.

Moran, 1723 Monument Street, DEP #137-1159

Director Kaye said the Order was for demolishing and reconstructing a single-family house. Work within jurisdictional areas included installing an area drain, foundation drain, and rain garden in the 100-foot Buffer Zone to Bordering Vegetated Wetlands. There are no outstanding issues.

Commissioner Huggins moved to issue a Certificate of Compliance for Moran at 1723 Monument Street, DEP #137-1159. Commissioner Adams seconded. All so voted.

OTHER BUSINESS

52A Barretts Mill Road, Barretts Mill Farm, Proposed Greenhouse. Director Kaye said the greenhouse is proposed between two fields with access from the farm road. It's visible from Barretts Mill Road so they are going to do some screen planting to address HDC concerns. It's a temporary structure placed on sonatubes underlain with filter fabric measuring 26-foot by 48-foot. Commissioner Adams asked if they are pumping from the river and if it would be used year-round. It will remain up but probably not in use year. Director Kaye said they are pumping from the river but she has asked that they investigate installing a well as they have

the ability to apply for a grant through the Natural Resources Conservation Service, similar to what Gaining Ground did a few years ago.

Commissioner Adams moved to approve the greenhouse construction at 52A Barretts Mill Road as designed. Commissioner Poutasse seconded. All so voted.

Director's Report

- Director Kaye reminded the Commissioners about the MACC Annual Conference being held at The College of the Holy Cross in Worcester. The Town will cover cost for Commissioners to attend. Commissioner Zaunbrecher mentioned she took an on-line course with MACC and it worked out well.
- The Town Warrant has been published and she recommended scheduling some time during the next meeting to consider warrant articles the Commission might want to take a position on at Town Meeting scheduled for April 4th -7th.
- Millbrook Tarry went in front of the Planning Board for a discussion to get a sense of how the Planning Board felt about the plan conceptually. The consensus from the majority of the Planning Board members is concern about the parking and traffic and lack of master planning. They would like to meet with the NRC to get the Commission's perspective on putting a parking deck over the isolated wetland area at the February 17th meeting.
- The BFRT is expected to be heard at the February 17th meeting. The plans will be available on CDs along with a narrative of the changes that were made. Commissioner Zaunbrecher asked for an index of page numbers to refer to since there is a lot in the plan set that does not pertain to them.

Approve Meeting Minutes

Commissioner Adams moved to approve the January 20, 2016 NRC meeting minutes. Commissioner Zaunbrecher seconded. All so voted.

Commissioner Adams moved to adjourn the Open Session and enter into Executive Session, not to return to Open Session, to consider the lease of real property -- Agricultural License Award Recommendations: 41A Barretts Mill Road and 6A Harrington Avenue. The Open Session adjourned at 8:15 p.m. Commissioner Huggins seconded. All so voted.

Respectfully submitted,

Kathy Richardson
Administrative Assistant